

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                           |   |                      |
|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, | ) |                      |
|                           | ) |                      |
| Plaintiff,                | ) | 4:05CR3139           |
|                           | ) |                      |
| v.                        | ) |                      |
|                           | ) |                      |
|                           | ) |                      |
| FERNANDO ESPARZA-MORALES, | ) | MEMORANDUM AND ORDER |
|                           | ) |                      |
| Defendant.                | ) |                      |

Defendant has filed a motion for bill of particulars, seeking specific information regarding the evidence the government intends to use at trial. The government has not responded to the motion.

The purpose of a bill of particulars is not to apprise the defendant of the government's evidence as such, but rather, to notify the defendant of the specific acts encompassed within the charges made in the indictment and to protect the defendant from double jeopardy in the event of a later prosecution. Upon consideration of the motion, I note the indictment does not apprise defendant of the acts the government will attempt to prove at trial with adequate specificity to meet these ends. I think additional information is necessary to meet the purposes of fair notice. Since the prosecutor has apparently refused to provide it, I shall order a bill of particulars filed.

IT THEREFORE HEREBY IS ORDERED:

1. The motion for bill of particulars, filing 13, is granted in part, and the government shall, within ten days, file a bill of

particulars setting forth the names of all persons known or believed to be, or to have been, co-conspirators and the specific acts--including dates, times, places, identification and amounts of any and all controlled substances involved, persons present, and actions taken by each--that the government will attempt to prove at trial.

Dated February 1, 2006

BY THE COURT

*s/ David L. Piester*  
United States Magistrate Judge